(18)

HIGH COURT OF CHHATTISGARH AT BILASPUR

M.A. No. 509/2005

CORAM: Hon'ble Shri **S.R. Nayak**, Chief Justice &
Hon'ble Shri **Dilip Raosaheb Deshmukh**, J.

APPELLANT Claimant	:		Hemlal, S/o Santuram Dhruwa aged about 18 years R/o Vill. Saradih, P.S. Suhela, Tah. Palari, District Raipur (C.G.)
			Versus
RESPONDENTS Driver	:	1.	Jakir Khan, S/o Mohd. Sarifkhah Musalman, R/o. Kurud, P.S. Palari, District Raipur (C.G.)
Owner	:	2.	Firoz Khan, S/o Sarifkhan Musalman, R/o. Vill. Kurud, P.S. Palari, District Raipur (C.G.)
Insurer	:	3.	The New India Insurance Company Ltd. Registered Office-3, Midiltan Street Kolkata-70071 Present Address: National Insurance Company Ltd., Branch Office, Mohasimahal, G.E.Road, Raipur Dist. Raipur (C.G.)

Shri Goutam Khetrapal, Counsel for the appellant.
Shri Ali Asgar, Counsel for the Insurance-Company/Respondent No.3.

ORAL ORDER
(Passed on 26th April 2006)

The following oral order of the Court was passed by **S. R. Nayak, C.J.**

In a personal injury case, the injured not being satisfied with the compensation awarded by the Motor Accidents Claims Tribunal (M.A.C.T.), has preferred this appeal. In an accident occurred on 30th

June 2002 involving the motor vehicle driven by first respondent, owned by second respondent and insured by third respondent, the appellant has sustained certain injuries including fracture of right femur and tibia. He was hospitalized for four days as indoor patient between 30th June 2002 and 3rd July 2002. The fact that the accident occurred due to actionable negligence on the part of the driver of the vehicle involved in the accident is not in controversy, and therefore, there is no need for us to review the finding recorded by the M.A.C.T. on actionable negligence.

2. It was contended by the learned counsel for the appellant that global compensation of Rs.20,000/- awarded by the M.A.C.T. cannot be regarded as a just and reasonable compensation within the contemplation of the Motor Vehicles Act, 1988 (for short 'the Act'). It was further contended that the M.A.C.T. did not award compensation separately on various permissible heads. Learned counsel for the Insurance-Company, per contra, would support the impugned award.

3. Having heard learned counsel for the parties, the only question that arises for decision is whether the compensation awarded by the M.A.C.T., in the facts and circumstances of the case and evidence on record, could be considered to be a just and reasonable compensation within the contemplation of the Act and if it is not, what is just and reasonable compensation.

4. It has come in the evidence of the appellant that at the relevant point of time, the appellant was earning his livelihood by selling bakery foods and due to accident, he could not carry on his vocation for a period of two years. It was claimed that he was earning daily Rs.150/-. It is also on record that the appellant claimed medical expenses and has produced medical bills to the tune of Rs.18,495/-.

5. In an injury case, an injured person is entitled to claim reasonable compensation under various heads such as, pain and suffering, medical expenses, attendance and conveyance charges, provisions for special nutrition and food, loss of income during laid up period, loss of future income, loss of amenities of life, if there are any permanent disabilities etc. In that view of the matter, the learned M.A.C.T. is not justified in awarding mere Rs.20,000/- as global compensation without appreciating the evidence laid before it and without examining whether compensation on certain permissible heads could be awarded to the injured-appellant.

6. Having regard to the nature of injury sustained by the appellant in the accident, we think that a sum of Rs.15,000/- would be a just compensation under the head, 'pain and suffering'.

7. Medical bills for Rs.18,495/- were produced before the M.A.C.T., as could be seen from the original records. Rounding it, we award a sum of Rs.19,000/- towards medical expenses. Though the appellant claimed his daily income was Rs.150/-, it seems to our mind that it is on higher side. Therefore, we take the daily income of the appellant at Rs.100/-. Due to the fracture sustained by the appellant and having regard to the nature of the avocation carried on by him, it is quite reasonable to think that the appellant was not in a position to attend his avocation for a period of three months. In that view of the matter, we award a sum of Rs.9,000/- towards loss of income during the laid up period. The appellant was in hospital as indoor patient for a period of 4 days, and therefore, we award a sum of Rs.2,000/- cumulatively under the heads, attendance charges, conveyance charges and the expenses incurred towards special nutrition and food. The interest awarded by the M.A.C.T. at the rate of 9% per annum is an appropriate rate and it does not call for any interference.

8. In the result and for the foregoing reasons, we allow the appeal and in substitution of the award passed by the M.A.C.T., we award a total compensation of Rs.45,000/- under the following heads:

1)	Pain and suffering	...	Rs.15,000/-
2)	Medical Expenses	...	Rs.19,000/-
3)	Loss of Income during the laid up period	...	Rs. 9,000/- (3,000/- x 3)
4)	Attendance and conveyance charges, and the cost of special nutrition and food.	...	Rs. 2,000/-
	Total:		Rs.45,000/-

with interest at the rate of 9% per annum from the date of claim petition till payment.

9. The difference of compensation payable to the appellant shall be paid to him by the 3rd respondent-Insurance Company within a period of six weeks from today. The appellant is also entitled to cost of this appeal which is quantified at Rs.1500/-.

Sd/-
Chief Justice
Judge

Sd/-
DILIP RAOSAHEB DESHMUKH
Judge

Anjay Jamane